IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 25.09.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice S.TAMILVANAN

Habeas Corpus Petition No.736 of 2006

Sakunthala ... Petitioner

vs.

1. State rep. by its Secretary to Government,
Prohibition & Excise Department,
Secretariat,
Chennai-600 009.

2. The District Magistrate
and District Collector,
Kancheepuram District,
Kancheepuram. ... Respondents

For Petitioner : Mr.S.Swamidoss Manokaran

For Respondents : Mr.M.Babu Muthu Meeran,
Additional Public Prosecutor.

Petition under Article 226 of the Constitution of India for the issuance of writ of habeas corpus to direct the respondents to produce the detenu viz., Chellappan, son of Kannu, who is now detained in Central Prison, Chennai in pursuance of the detention order passed by the second respondent on 14.07.2006 in BDFGISSV No.28/2006 before this Court, call for the records, set aside the order, and set the detenu at liberty forthwith.

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O R D E R

(Order of the Court was made by P.SATHASIVAM, J.)

The petitioner, who is the wife of the detenu by name Chellappan, who is detained as a "'Bootlegger " as contemplated under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982), by the impugned detention order dated 14.07.2006, challenges the same in this petition.

2. Heard learned counsel for the petitioner as well as learned Additional Public Prosecutor for the respondents.

3. At the foremost, learned counsel appearing for the petitioner by drawing our attention to Form-95 which is available at page No.81 of the paper booklet supplied to the detenu contended that though the alleged occurrence took place on 19.06.2006 at 6.00 a.m., the seized illicit arrack was sent to Court on 04.07.2006 and the same was acknowledged on 05.07.2006. Absolutely there is no explanation on the side of the respondents for taking time till 04.07.2006 for sending the ID arrack. In the absence of explanation by the person concerned, as rightly pointed out by the learned counsel for the petitioner, the seizure itself is highly doubtful and inasmuch as it goes to the root of the matter, the detention order based on the said material cannot be sustained. On this ground the impugned detention order is liable to be quashed.

4. Accordingly, the Habeas Corpus Petition is allowed and the impugned order of detention is set aside. The detenu is directed to be set at liberty forthwith from the custody unless he is required in connection with some other case or cause.

Gms

Sd/
Asst.Registrar

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Sub Asst.Registrar

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To

1. The Secretary to Government, Prohibition & Excise Department,
   Secretariat,Chennai-600 009.

2. The District Magistrate and District Collector,Kancheepuram District,
   Kancheepuram.

3. The Superintendent, Central Prison, Chennai.
   (In duplicate for communication to detenu)

4. The Joint Secretary to Government,
   Public (Law and Order), Fort St. George, Chennai-9.

5. The Public Prosecutor, High Court, Madras.

TM(CO)
SR/16.10.2006

HCP. No.No.736 of 2006

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